

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

WADE WHITFIELD,)
Plaintiff,)
VS.)
UNITED STATES OF AMERICA,)
ET AL.,)
Defendants.)
No. 19-2026-JDT-cgc

ORDER DIRECTING PLAINTIFF TO FILE A NON-PRISONER
IN FORMA PAUPERIS AFFIDAVIT OR PAY THE \$400 CIVIL FILING FEE

On January 7, 2019, Plaintiff Wade Whitfield, a former inmate of the Federal Correctional Institution in Memphis, Tennessee, filed a *pro se* civil complaint and a motion for leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) The Court issued an order on January 11, 2019, granting leave to proceed *in forma pauperis* and assessing the civil filing fee pursuant to the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 4.) On May 17, 2019, Whitfield informed the Court that he is no longer incarcerated and provided his new address. (ECF No. 7.)

Under the PLRA, a prisoner bringing a civil action must pay the full filing fee required by 28 U.S.C. § 1914(a). The statute merely provides the prisoner the opportunity to make a “downpayment” of a partial filing fee and pay the remainder in monthly installments. 28 U.S.C. § 1915(b). However, in this case, none of the filing fee was paid

prior to Whitfield's release. Under these circumstances, "the obligation to pay the . . . fees is to be determined solely on the question of whether the released individual qualifies for pauper status." *McGore v. Wrigglesworth*, 114 F.3d 601, 613 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Whitfield must either renew his pauper status or pay the filing fee. Therefore, he is ORDERED to submit, within 30 days of this order, either a properly completed and signed non-prisoner *in forma pauperis* affidavit or the full \$400 civil filing fee.¹ The Clerk shall mail Whitfield a copy of the non-prisoner *in forma pauperis* affidavit form along with this order.

Failure to comply with this order in a timely manner will result in the dismissal of this action without further notice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ The civil filing fee is \$350. 28 U.S.C. § 1914(a). Under § 1914(b) and the Schedule of Fees set out following the statute, an additional administrative fee of \$50 for filing any civil case also is required. Because that additional \$50 fee does not apply if leave to proceed *in forma pauperis* is granted, only the \$350 fee was assessed in the January 11, 2019, order. However, if Whitfield does not renew his pauper status, he will be responsible for the entire \$400 fee.